



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,075	06/25/2004	Mari Tabuchi	1422-0634PUS1	5317

2292 7590 12/23/2008
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

BALL, JOHN C

ART UNIT	PAPER NUMBER
----------	--------------

1795

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

12/23/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

DETAILED ACTION

Summary

1. Claims 1 and 3-8 are currently pending.

Response to Arguments

2. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).
3. Applicant's arguments filed regarding the combination of GORDON and HAUPT have been fully considered but they are not persuasive. GORDON teaches the limitation of electrophoresis of a protein in water, even if such a teaching would have adsorption of protein to the walls. While the assertion is that the instant invention has achieved results in an unexpected manner with respect to the avoidance of protein wall adsorption, the instant claims do not recite any avoidance of protein wall adsorption. Additionally, the modification of GORDON

Art Unit: 1795

by use of a pH of 8 to 9, as taught by HAUPT, would not render GORDON, the primary reference of the rejection, inoperable. It is of the ordinary skill in the art to be able to produce and use an electrophoresis buffer at a particular pH with the expectation of success.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. CHRISTOPHER BALL whose telephone number is (571)270-5119. The examiner can normally be reached on Monday through Thursday, 8:00 am to 5:00 pm (EDT).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1795

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nam X Nguyen/
Supervisory Patent Examiner, Art Unit 1753

JCB
AU 1795
12/17/2008